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REMARKS***Claim Objections***

The Examiner objected to claim 19 for dependence on claim 1. Claim 19 was corrected to depend on claim 18 as required by the Examiner, thus overcoming the Examiner's objection.

Claim Rejections – 35 U.S.C. § 112

The Examiner rejected claims 20 and 29 as being indefinite. Claims 20 and 29 have been amended to clarify the subject matter being claimed, thus overcoming the Examiner's rejections.

Claim Rejections – 35 U.S.C. § 102

The Examiner rejected claims 1, 2, 6, 7, 9, 16, 17, 20, 36, 37, and 40 as being anticipated by Fujita (Japanese Patent Application JP 03098515A).

A full English translation of Fujita has been obtained and a copy is attached for review.

In order to distinguish the present invention more clearly from Fujita, claims 2, 6, 7, 9 and 16 have been cancelled, while claim 1, 36, 37 and 40 have been amended to make it apparent that the plant support of the present invention comprises a single continuous loop of stiff elongated material having a rectangular or trapezoid shape including a 90° bend, thereby creating a vertical plant support member and a horizontal anchor member, each having a pair of longitudinal rods cross-connected at their ends with a connecting rod (please refer to Fig. 1 of the drawings of the present application for an example of the claimed embodiments). Importantly, it is to be noted that the subject matter of original claim 4 (elongated rods cross-connected with connecting rods) now appears in claim 1 and independent claim 36 (the plant support member is made up of a pair of elongated rods cross-connected at their ends with a connecting rod). Since claim 4 was not rejected by the Examiner for anticipation by Fujita, it is believed that the amendments made to the claims overcome the anticipation rejection made under Section 102.

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Claim Rejections – 35 U.S.C. § 103

The Examiner rejected claims 4 and 5 as being unpatentable over Fujita in view of Barakauskas (US Patent No. 3,026,649). As noted above, the subject matter of claim 4 now appears in all of the claims remaining in the application.

The Examiner argued that Fujita teaches a plant support member in the form of two or more elongated rods but is silent on them being cross-connected between the upper end and lower end. On the other hand, the Examiner argues that Barakauskas discloses such an arrangement.

According to the English translation of Fujita, the plant support disclosed is made of multiple bars that are spread wide apart (refer to Page 3 of the translation, column 1, paragraph 2 of the “Embodiments” section) that are connected by a cross-piece at the top of the bars and at the bottom of the bars. Fujita states that the multiple-bar plant support shown in Fig. 1 having seven vertical bars is intended for use in rectangular shaped planters (refer to Page 3 of the translation, column 1, paragraph 4 of the “Embodiments” section). Further, the support of Fujita may include “single stick-like supports, board-shaped supports, or supports with lined-up sticks” (Page 2 of the translation, column 2, next-to-last paragraph). There is no disclosure of a plant support made up of a continuous single loop of material having just a pair of elongated rods and the various other features as defined in the amended claims.

The connecting rod of the plant support member of the present invention can be gripped by hand and used to lift a plant container containing both soil and plant. In the absence of a realization that this is possible without attaching the plant support to the plant container (i.e. even though not attached to the container, the support does not lift the soil ball out of the container), there is no reason to provide the plant support with a grippable upper member that can be used for lifting purposes. The idea of using the support to carry the containers is not disclosed in Fujita. In fact, Fujita teaches away from this idea by pointing out that the support helps to remove the plant from the container during transplanting (Page 2 of the translation, column 2, last five lines), thereby promoting the idea that the support lifts out the soil ball. The inventor of the present invention found that while this is also true of the plant support of the present invention (i.e. transplanting is facilitated), it is surprising that the support can be used to carry the container without separating the soil ball from the container. In short, Fujita is concerned with making the plant support solid for the plants, rather than lifting of the plant containers, whereas the present invention is more concerned with the lifting aspect.

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Fujita points out that although the plant support shown in Fig. 1 does not fit the size or dimension of the planter, the plant can be more solidified (*sic*) if a plant support in the length of the planter is used instead, although rocking or shifting of the support can be prevented by pouring soil on top (refer to Page 3 of the translation, column 1, paragraph 8 of the "Embodiments" section). Furthermore, Fujita discloses that the horizontal length of the plant support is determined by the size of pot or planter, and that it is preferred to make his support fit the inner walls and bottom surface of the pot/planter and to use the invention so that it touches the inner walls and the bottom surface of the pot/planter because the stability of the invention is further enhanced when the vertical part touches the inner walls and the horizontal part touches the bottom surface of the pot/planter. In other words, when the plant support is fit into a pot/planter and soil added to the pot, the pot/plant and support become one unit rendering more stability (refer to page 2 of the translation, column 1, paragraph 3 of the "Means for Solving the Problem" section). In other words, Fujita teaches that his plant support should ideally be wedged into bottom and sides of a pot/planter.

The embodiment shown in Fig. 5 of Fujita shows a plant support comprising a framework consisting of 3 spaced-apart L-shaped bars connected by crosspieces at their tops, bottoms and at their L-joints, and further is provided with netting covering the entire area of the plant support to adequately support certain types of vines. Fujita also discloses that the nature of vine to be grown will determine if the support should be used with netting or alternatively with multiple bars. Applicant points out that the Fujita plant support provided with netting would be very difficult to remove from a transplanted plant without significantly damaging the plant, particularly if the plant stems and leaves have intertwined through the netting. Fujita's multiple bar-type support as shown in his Fig. 1 would also be difficult to disengage and remove from a transplanted bar without damaging the stems, shoots, leaves and/or disrupting the root mass. Applicant also points out that Fujita teaches that the plant support is most stable for supporting plant growth when it has three contact points with a planter, i.e., at the top and at two bottom edges of the planter, and that stability i.e., "retainability" is still increased considerably even if it has two contact points with the container instead of three, thereby disclosing that his support is not very stable and may rock or shift if there is only one contact point with the container (refer to page 3 of the translation, column 1, paragraph 8 of the "Embodiments" section).

The present invention does not require more than two vertical bars or netting, nor does it have to be wedged into a pot so that it is in contact with both the bottom and sides of a pot. Rather, it is a continuous loop material in the form of a rectangle or parallelogram with a

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90° bend to form a vertical plant support with two vertical elements and a horizontal anchor member. The plant support of the present invention provides maximum support and stability for a plant growing in a container wherein the plant support is free-standing within the pot filled with growing mix, i.e., no parts of the support need contact the side walls of container. In fact, the present invention is so stable when free-standing within a pot into which only a growing mix has been added, that the pot and soil can be lifted by grasping and raising the top of the free-standing plant support, and furthermore, up to 6 pots containing therein only growing mix and free-standing plant supports of the present invention can be lifted together by one hand without pulling out and separating any of the free-standing supports from the pots. This is illustrated in the attached photograph of an embodiment of Applicant's invention (in accordance with the amended claims).

It is therefore believed that the present invention, according to the amended claims, is not obvious from Fujita alone.

While Barakauskas shows the use of cross-connectors, as stated by the Examiner, a combination of Fujita and Barakauskas would not make the present invention any more obvious than from Fujita alone (and it is not believed to be obvious from Fujita alone for the above reasons). Moreover, the support of Barakauskas is clamped securely to the plant container with which it is used, which seems contradictory to the teaching of Fujita, so a person skilled in the art would not be motivated to combine the teachings of these two references.

The Examiner went on to reject claims 11, 12, 38 and 39 as being unpatentable over Fujita alone. It is to be noted that Claims 11, 12, 38 and 39 have been cancelled.

The Examiner then went on to reject claims 18, 19 and 29 as being unpatentable over Fujita in view of Madonia (European Patent No. EP 0079758).

Original claim 18 is dependent on currently amended claim 1 and is believed to be patentable over Fujita for the same reasons as claim 1. Furthermore, Fujita does not teach that vines should be tied to the support but instead, provides netting as shown in Fig. 5 to contain and support vines growing thereon. Madonia discloses a stake, i.e., a single vertical element, which is provided with a lobed cross-section thereby forming longitudinal winged portions for bracing a plant stem therein. Madonia further discloses serrations on the edges of the winged portion to retain ties and prevent their slippage. Neither Fujita nor Madonia disclose horizontal notches on the vertical elements of their plant support for the purposes of (1) engaging a crossmember, or (2) to facilitate severing of the vertical elements to facilitate their removal from the plants. The same comments apply to claims 19 and 29.

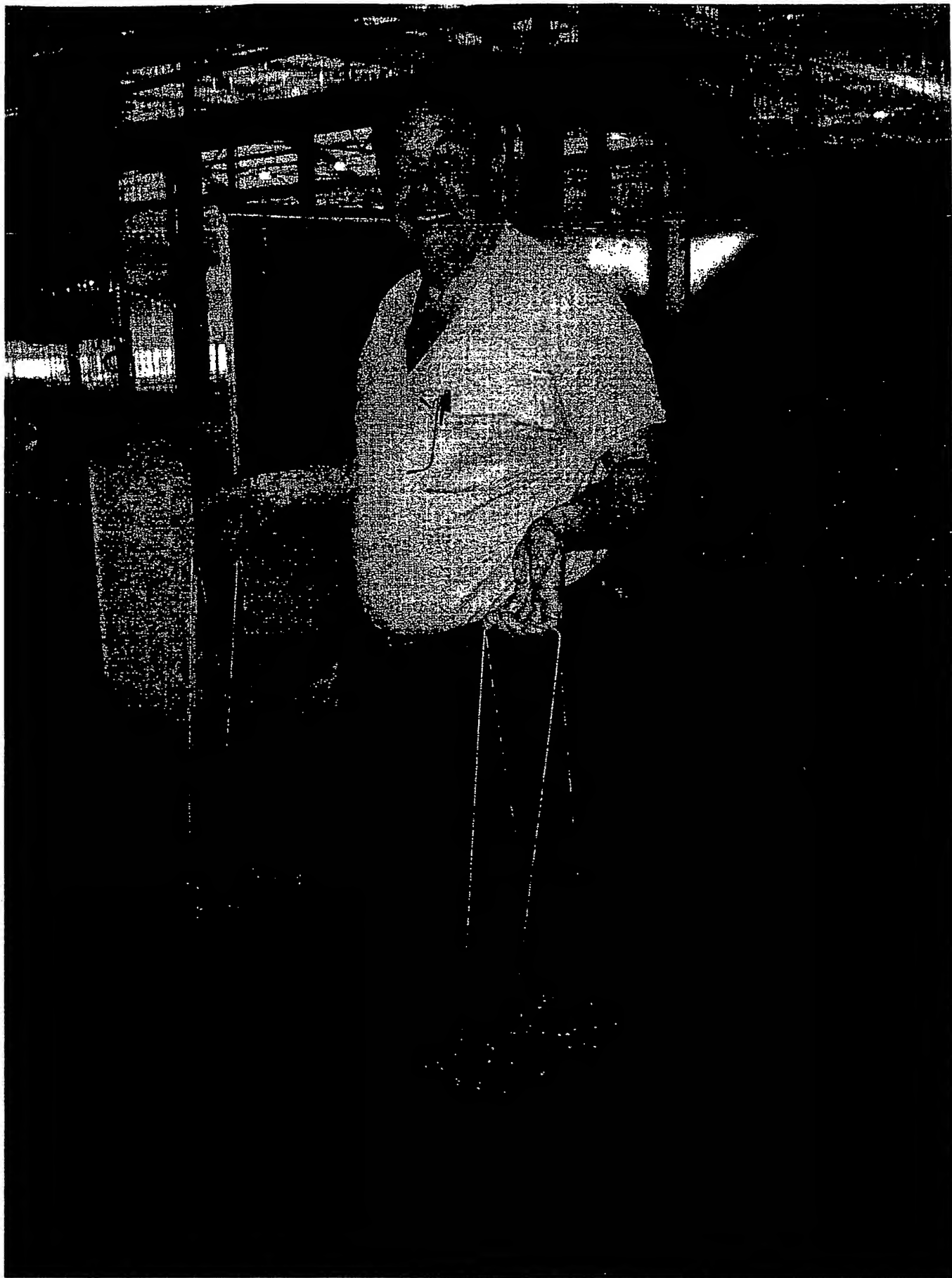
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In view of the above arguments, and the amendments made to the claims, it is believed that it will be apparent that the present invention is quite different from the disclosure of Fujita whether or not combined with Barakauskas or Madonia. Reconsideration of the application is therefore requested.

Respectfully submitted,



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